IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION NO.2716 OF 2005

Mahanagar Kamgar Union ...Petitioner.
V/s.
Industrial Development Bank of India & Anr....Respondents.

Ms. Gayatri Singh for Petitioner.

Mr.Deepak Singh i/b K. Ashar & Co. for Respondent No.1.

CORAM: H.L.GOKHALE &
S.R.DONGAONKAR, JJ.
DATE : 20th April, 2006.

P.C.:

1. Heard Ms. Gayatri Singh in support of this petition. Shri Deepak Singh appears for respondent no.1.

2. Petition is filed on behalf of some 200 employees of the second respondent-company. The petition is filed on 11th April, 2005 in this Court seeking direction that the legal dues of the workmen be paid by the second respondent-company. It was stated in the petition that the affairs of the second respondent-company were before B.I.F.R. though earlier there was award passed by the Industrial Court, Thane directing second respondent-company to pay the dues of the concerned workmen.

3. When the matter came before this Court, earlier

Division Bench passed an order on 14th June, 2005 which referred to the order passed by B.I.F.R. on 3rd September, 2004. Clause (i) of this order is that "the workers' dues of the Thane unit be paid out of the sale proceeds in proportion to the dues of the secured creditors." The respondent no.1 has filed reply and to this reply, order was passed by Madhya Pradesh High Court at Indore on 11th July, 2005 in Company Petition No.12 of 2004 is annexed. The order records that the High Court has received Reference made by B.I.F.R. under Section 20(2) of the Sick Industrial Companies Act. The High Court has accordingly directed winding up of the Company and has appointed official liquidator of that Court as liquidator of the Company concerned under Section 449 of the Companies Act. It is also pointed out that the second respondent- company has deposited an amount of Rs.28,57,43,377 with the official liquidator.

4. Ms.Singh has pointed out that under the earlier mentioned order of B.I.F.R. dated 3rd September, 2004, workers dues are to be paid out of the sale proceeds as noted earlier. She, therefore, submits that the amounts which are now deposited be disbursed to the workers concerned. Surely, we can not do that. The High Court of Madhya Pradesh at Indore is seized of the matter. That Court has appointed liquidator and petitioners will have

to apply to that High Court for disbersal of these amounts. Ms.Singh states that petitioners will apply to the High Court of Madhya Pradesh within four weeks for release of the amount. She prays that amount be retained in the meanwhile with the liquidator of the High Court of Madhya Pradesh at Indore. That request will have to be made to the High Court of Madhya Pradesh. However, considering that the workers concerned are in difficulty and their moneys are lying with the liquidator of that High Court, we are sure that High Court of Madhya Pradesh will not release that amount to other claimants unless claims of the employees are considered.

5. Petition stands disposed of.

(H.L.GOKHALE,J.)

(S.R.DONGAONKAR, J.)